

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RANDY SOWELL,

Plaintiff,
-against-

CAPTAIN KELLY, *et al.*,

Defendants.

23-CV-5354 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated October 16, 2023, the Court granted Plaintiff leave to file an amended complaint within 60 days. On November 28, 2023, in another case pending before the Court, *Sowell v. Annucci*, No. 22-CV-6538 (LTS), Plaintiff informed the Court that he had been transferred to a facility in New Jersey. On January 2, 2024, the Court issued an order directing Plaintiff to update his address and notified him that failure to do so would result in dismissal of the action without prejudice, under Rule 41(b) of the Federal Rules of Civil Procedure, for failure to prosecute. The Clerk's Office mailed the order to the Cape May Correctional Facility, where public records indicated Plaintiff was detained. On February 23, 2024, the Court's January 2, 2024 order was returned to the Court as undeliverable because Plaintiff was released and did not provide a forwarding address.

CONCLUSION

Accordingly, as Plaintiff has not complied with the Court's January 2, 2024 order, notified the Court of a change of mailing address, or initiated any further contact with the Court, written or otherwise, the Court dismisses Plaintiff's complaint without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppededge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to terminate all motions in this action and enter judgement.

SO ORDERED.

Dated: February 26, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge